

CHANGE REQUEST for FY 08-09 BUDGET REQUEST CYCLE

Department:	Department of Natural Resources
Priority Number:	7 of 18
Change Request Title:	CWCB Compact Dues Increase

SELECT ONE (click on box):

- ☒ Decision Item FY 08-09
☐ Base Reduction Item FY 08-09
☐ Supplemental Request FY 07-08
☐ Budget Request Amendment FY 08-09

SELECT ONE (click on box):

Supplemental or Budget Request Amendment Criterion:

- ☒ Not a Supplemental or Budget Request Amendment
☐ An emergency
☐ A technical error which has a substantial effect on the operation of the program
☐ New data resulting in substantial changes in funding needs
☐ Unforeseen contingency such as a significant workload change

Short Summary of Request:

The Colorado Water Conservation Board (CWCB) requests additional funds of \$19,904 to pay the increase in dues assessed by 1) the Arkansas River Compact Administration Association (ARCA), 2) the Upper Colorado River Commission, and 3) the Colorado River Salinity Control Forum.

General Description of Request:

Based on the budget adopted by ARCA, Colorado's portion of the Arkansas River Compact Administration assessed dues will increase by \$8,400, to a total of \$57,600, which represents Colorado's 60% portion of the assessed dues. The Upper Colorado River Commission dues will increase by \$5,178, bringing the total dues to \$170,258. The Colorado River Salinity Control Forum's estimated budget will increase Colorado's assessed dues by \$6,326, which will bring Colorado's dues to \$37,028, which is Colorado's 20.1% portion of the Program. The increase for all dues totals \$19,904, which will solely cover projected increases in compact dues in FY 2008-09 over the costs in FY 2007-08.

The State of Colorado assisted in developing four interstate water organizations to clarify Colorado's rights to water, help protect those rights, and establish appropriate levels of communication among state and federal officials. The four interstate water organizations

are: 1) Upper Colorado River Commission, 2) Arkansas River Compact Administration Association, 3) Colorado River Basin Salinity Control Forum, and 4) Western States Water Council (WSWC). Two of the four organizations oversee federal operations of specific reservoir projects that provide water to Colorado water-users.

Each of the four interstate water organizations establishes a yearly operating budget, of which the State of Colorado pays an established percentage for dues and/or assessments in accordance with Sections 37-60-106 C.R.S. (2006), 37-62-101 through 105 C.R.S. (2006), and 37-69-101 through 105 C.R.S. (2006) of the Colorado Revised Statutes. The dues are funded each year through two separate line items (*Interstate Compacts* and *Western States Water Council*) in the Long Bill.

The reason for the increase in ARCA dues is to make assessments more closely aligned with expenditures and to provide funds to undertake the necessary studies and actions to implement the settlement in the Kansas vs. Colorado litigation. The 60%-40% split of assessments between Colorado and Kansas is specified in the Compact, which is state law, and is based on the relative allocation of water between the states.

The implementation program for salinity control in the Colorado River Basin, a federal and state partnership, has grown by nearly 200% in the last five years, reflecting the increased coordination efforts and the number of projects required to control the salinity of the river. For the past five years, the Salinity Control Forum has been in a deficit budget, (i.e., expenses have been greater than the assessment income from dues). The increase in dues will allow restoration of a small reserve account and eliminate deficit spending in FY 08-09.

The dues increase for the Upper Colorado River Commission is necessary as a result of the recent Colorado River 7-state negotiations.

Background and Appropriation History:

In FY06-07, the CWCB submitted a decision item request for increases assessed by all four of the interstate water organizations. The request was approved for the increases that take effect in FY07-08. Again, the CWCB is facing an increase in dues assessed by three of the four interstate water organizations: 1) the Arkansas River Compact

Administration Association (ARCA), 2) the Upper Colorado River Commission, and 3) the Colorado River Salinity Control Forum. To fulfill our obligations to these organizations, the CWCB is requesting additional funding to pay the increase in dues so that the State of Colorado's water remains protected.

The CWCB's mission is to develop, conserve, protect, and manage the state's water. To accomplish this, the CWCB must comply with and enforce other state's compliance with interstate compacts. Two of these organizations (Arkansas River Compact Administration and Upper Colorado River Commission) are mandated by the Interstate Compacts and in Colorado Statute. The other two are established by agreements among the participating states. The Department's authority to participate in and implement the necessary program actions is provided by the following:

- 37-62-101 Article VIII C.R.S. (2006) and 37-62-105 C.R.S. (2006) require the State to pay a portion of the Upper Colorado River Commission expenses based on the percentage of consumptive use apportioned to it (51.75%).
- 37-69-101 C.R.S. (2006) Article VIII E (1) and (2) and 37-69-105 C.R.S. (2006) likewise requires the State to pay a portion of the Arkansas River Compact Administration's assessment.
- 37-60-102 C.R.S. (2006) and 37-60-106 (1) (e), (h), and (i) C.R.S (2006) authorizes the State to pay its assigned share of the Colorado River Salinity Control Forum and Western States Water Council assessments.

Consequences if Not Funded:

Dues to organizations that oversee administration of interstate compacts have increased \$73,134 from FY 2000-01 to FY 2007-08. During the FY01-07 time period, water issues have intensified in part due to the recent drought conditions. Colorado has not been able to have a representative attend all necessary meetings given the decreasing budget and an increased workload. As a result, the effectiveness in protecting Colorado's water interests has been somewhat reduced and the leadership role has diminished. Failure to fund participation in the two Compact organizations would violate the law and in all cases could ultimately result in a loss of water to Colorado and expensive interstate litigation. Conversely, full participation significantly reduces those possibilities.

The mission of the CWCB is to develop, conserve, protect, and manage the state's water. In order to accomplish this, the CWCB must comply with and enforce other state's compliance with interstate compacts, Supreme Court decisions and multi-state agreements. Funding this decision item will allow the State to:

- continue its participation in compact administration and compact-related matters;
- protect Colorado's water interests;
- create opportunities to bring federal dollars to Colorado through the Salinity Control Program;
- continue the current base operation of the compact line item and prevent further cuts in necessary travel to organizational meetings and events;
- allow Colorado to effectively protect Colorado's interests in the face of increasing efforts needed to limit other states to their compact apportionment; and
- allow the CWCB to maintain the relationships necessary to correct obstacles to water development.

Calculations for Request:

Summary of Request FY 08-09	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
Total Request	\$19,904	\$0	\$0	\$19,904*	\$0	0.0
Arkansas River Compact Administration Association	\$8,400	\$0	\$0	\$8,400	\$0	
Upper Colorado River Commission	\$5,178	\$0	\$0	\$5,178	\$0	
Colorado River Salinity Control Forum	\$6,326	\$0	\$0	\$6,326	\$0	

* Cash Source(s): Construction Fund (CFE)

Summary of Request FY 09-10	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
Total Request	\$19,904*	\$0	\$0	\$19,904*	\$0	0.0

* Colorado Water Conservation Board does not have final information for FY2009-10 at this time, but increases over the FY2008-09 budgets are not anticipated.

Assumptions for Calculations:

Based on the budget adopted by ARCA, Colorado's portion of the Arkansas River Compact Administration assessment dues will increase by approximately \$8,400, to a total of \$57,600, which represents Colorado's 60% of the assessed dues. The Upper Colorado River Commission dues will increase by \$5,178, bringing the total dues to \$170,258. The Colorado River Salinity Control Forum's budget will increase Colorado's dues by \$6,326, which will bring Colorado's dues to \$37,028, which is Colorado's 20.1% of the assessed dues. The increase for all dues totals \$19,904, which will solely cover projected increases in compact dues in FY 2008-09 over the costs in FY 2007-08. (Please see *Attachment A* for the supporting documentation of the dues increases for the interstate water organizations.)

Impact on Other Government Agencies:

The Compacts and Agreements entered into with other states will be impacted if the dues increases are not honored and will adversely impact Colorado's relationships with those states.

Cost Benefit Analysis:

A true benefit cost analysis is difficult to develop because of the numerous assumptions that would be required. One option in determining the benefits or cost avoidance of participation in these organizations is:

- Pursuant to the Colorado and Upper Colorado River Compacts, Colorado has the right consumptively to use 3.855 million acre-feet of water annually. If Colorado were to lose just 1% of its entitlement, as a result of its failure to pay the dues required by law or to participate in these organizations, it would result in a loss of water use to the State in the amount of 38,550 acre-feet (approximately 20% of the capacity of a Dillon reservoir). Assuming a conservative annualized cost of water of \$1,000 per acre-foot (capital costs range from \$12,000 to \$17,000 per acre foot), this would create a loss in annual benefits of \$38.5 million.

A similar analysis can be made for compact entitlements on the Arkansas, South Platte, Rio Grande, and Republican, which can easily move the annual losses into the range of over \$100 million. In addition, failure to participate fully in organizations mandated by law can result in legal actions by the other compacting states and settlements ranging into millions of dollars (e.g., Kansas v Colorado cost the State of Colorado approximately \$35 million in damages alone). Participation in the other organizations is considered essential to maintaining water quality standards on a basin-wide level and to the development of coalitions with other Western states on federal legislation.

Cost	Benefits
Dues increase \$19,904	<ul style="list-style-type: none"> • Continue Colorado participation in compact administration and compact-related matters • Protect Colorado's water interests (An annual benefit running into the \$100 million range) • Create opportunities to bring federal dollars to Colorado through the Compact Administration Projects and Salinity Control Program (Salinity Control Program alone brings in \$10 million to \$11 million annually) • Continue the current base operation of the compact line item and prevent further cuts in necessary travel to organizational meetings and events • Allow Colorado to effectively protect Colorado's water interests in the face of increasing efforts needed to limit other states to their compact apportionment • Allow the CWCB to maintain the relationships necessary to address obstacles to water development.

Implementation Schedule:

Task	Month/Year
Dues payable law governing interstate Compacts	July 2008
Dues payable by written agreement with other states	July 2008

Statutory and Federal Authority:

Each of the four interstate water organizations establishes a yearly operating budget, of which the State of Colorado pays an established percentage for dues and/or assessments in accordance with Sections 37-60-106 C.R.S. (2007), 37-62-101 and 105 C.R.S. (2007), and 37-69-101 and 105 C.R.S. (2007) of the Colorado Revised Statutes. The dues are funded each year through two separate line items (*Interstate Compacts* and *WSWC*) in the Long Bill.

37-60-106 C.R.S. (2007): The statute outlines the duties of the Colorado Water Conservation Board. “(1) It is the duty of the board to promote the conservation of the waters of the state of Colorado in order to secure the greatest utilization of such waters and the utmost prevention of floods; and in particular, and without limiting the general character of this section, the board has the power and it is its duty:...

(i) To confer with and appear before the officers, representatives, boards, bureaus, committees, commissions, or other agencies of other states, or of the federal government, for the purpose of protecting and asserting the authority, interests, and rights of the state of Colorado and its citizens with respect to the waters of the interstate streams in this state; “

37-62-101 C.R.S. (2007): “The general assembly hereby ratifies the compact among the states of Colorado, New Mexico, Utah, Wyoming, and Arizona, designated as the "Upper Colorado river basin compact." The statute continues and outlines the involvement of the Colorado Water Conservation Board with the Upper Colorado River Compact.

37-62-105 C.R.S. (2007): The statute describes the payment of expenses of commission. “The Colorado share of the expenses of the upper Colorado river commission and the expenses and the compensation of the Colorado member of that commission shall be paid out of funds appropriated by the general assembly to the Colorado water conservation board and warrants shall be drawn against such appropriations upon vouchers signed by the governor and the director of the Colorado water conservation board.”

37-69-101 C.R.S. (2007): “The general assembly hereby ratifies the compact between the state of Colorado and the state of Kansas designated as the "Arkansas river compact" signed in the city of Denver, state of Colorado, on the 14th day of December, A. D. 1948.” Further, it describes the involvement of the Colorado Water Conservation Board with the Arkansas River Compact.

37-69-105 C.R.S. (2007): The statute describes the payment of expenses of compact administration. “The Colorado share of the expenses of the Arkansas river compact administration and the expenses and compensation of the Colorado members of that administration shall be paid out of funds appropriated by the general assembly to the Colorado water conservation board and warrants shall be drawn against such appropriation upon vouchers signed by the governor and the director of the Colorado water conservation board.”

Performance Measures:

DNR’s Performance Measure #3 has a goal of achieving 100% overall compliance with interstate water compacts. Performance in this regard will be measured in terms of the percentage of times when the State of Colorado will receive the beneficial uses provided for or meet its contractual water delivery obligations. While payments of compact dues will not directly affect this performance measure, the spirit of this decision item is for Colorado to honor its commitments to interstate water organizations and pay its fair share of the associated costs. In this regard, the intent of this decision item is consistent with one of the Department’s highest priority objectives (interstate compact compliance).
